

By: Hopson

H.B. No. 1050

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of barbering and cosmetology.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1602.256(a), Occupations Code, is amended to read as follows:

(a) A person holding a manicurist license may perform only the practice of cosmetology defined in Section 1602.002(a)(10) or (11) [~~1602.002(9) or (10)~~].

SECTION 2. Section 1603.352, Occupations Code, is amended to read as follows:

Sec. 1603.352. STERILIZATION [~~SANITATION~~] REQUIREMENTS FOR CERTAIN SERVICES. (a) A person who holds a license, certificate, or permit issued under this chapter, Chapter 1601, or Chapter 1602 and who performs a barbering service described by Section 1601.002(1)(E) or (F) or a cosmetology service described by Section 1602.002(a)(10) or (11) [~~1602.002(10) or (11)~~].

~~[(1)]~~ shall, before performing the service, clean, disinfect, and sterilize with an autoclave or a dry heat sterilizer, in accordance with the sterilizer manufacturer's instructions, each metal [~~nondisposable~~] instrument, including metal nail clippers, cuticle pushers, cuticle nippers, and other metal instruments, used to perform the service [~~, and~~

~~[(2)] may use a disposable supply or instrument only if that supply or instrument is purchased at the location where the~~

1 ~~service is performed or provided by the person on whom the service~~  
2 ~~is performed]~~.

3 (b) The owner or manager of a barber shop, barber school,  
4 beauty shop, specialty shop, or beauty culture school, or other  
5 facility licensed under this chapter, Chapter 1601, or Chapter  
6 1602, is responsible for providing an autoclave or a dry heat  
7 sterilizer for use in the shop or school as required by Subsection  
8 (a). An autoclave or a dry heat sterilizer used as required by  
9 Subsection (a) must be[+]

10 [~~(1) registered and~~] listed with the federal Food and  
11 Drug Administration [~~+~~ and

12 [~~(2) used in accordance with the manufacturer's~~  
13 ~~instructions]~~.

14 (c) Each sterilized instrument must be stored in accordance  
15 with the manufacturer's instructions.

16 (d) This section does not apply to:

17 (1) single-use instruments; or

18 (2) nonmetal nail files, buffer blocks, pumice stones,  
19 nail brushes, and other similar instruments.

20 (e) The commission may adopt rules to administer this  
21 section.

22 SECTION 3. Subchapter J, Chapter 1603, Occupations Code, is  
23 amended by adding Sections 1603.455 and 1603.456 to read as  
24 follows:

25 Sec. 1603.455. EMERGENCY ORDERS. (a) The executive  
26 director may issue an emergency order to suspend or revoke a license  
27 or permit issued, or to cease the operation of an unsafe facility

1 regulated, by the department under this title if the executive  
2 director determines that an emergency exists requiring immediate  
3 action to protect the public health and safety.

4 (b) The executive director may issue the emergency order  
5 with or without notice and hearing as the executive director  
6 considers practicable under the circumstances.

7 (c) If an emergency order is issued under this section  
8 without a hearing, the executive director, not later than the 10th  
9 day after the date the order was issued, shall set the time and  
10 place for a hearing conducted by the State Office of Administrative  
11 Hearings to affirm, modify, or set aside the emergency order. The  
12 hearing examiner shall affirm the order to the extent that  
13 reasonable cause existed to issue the order.

14 (d) The commission by rule may prescribe procedures for the  
15 issuance and appeal of an emergency order under this section,  
16 including a rule to allow the commission to affirm, modify, or set  
17 aside a decision by the State Office of Administrative Hearings  
18 under Subsection (c).

19 (e) A proceeding under this section is a contested case  
20 under Chapter 2001, Government Code.

21 Sec. 1603.456. CEASE AND DESIST ORDERS. The executive  
22 director may issue a cease and desist order, after notice and  
23 opportunity for hearing, if the executive director determines that  
24 the order is necessary to prevent a violation of:

25 (1) this chapter, Chapter 1601, or Chapter 1602; or

26 (2) a rule adopted by the commission.

27 SECTION 4. Sections 1601.506 and 1602.408, Occupations

1 Code, are repealed.

2       SECTION 5. This Act takes effect immediately if it receives  
3 a vote of two-thirds of all the members elected to each house, as  
4 provided by Section 39, Article III, Texas Constitution. If this  
5 Act does not receive the vote necessary for immediate effect, this  
6 Act takes effect September 1, 2007.